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ABSTRACT

The issue in government treatment of nonpublic education has never been whether governments should finance or regulate nonpublic schools, but rather how and how much, according to the author. This paper explores financial and regulatory policies shaping government involvement in nonpublic education. It first examines the types and magnitudes of government aid to nonpublic schools, including indirect aid through tax policies and direct aid through fiscal policies. Discussed under direct aid are state programs, including transportation services, handicapped education, textbook and instructional materials, and health and welfare services; Federal programs, involving compensatory education, child nutrition, auxiliary services, special education, and science; and local programs, involving "child benefit" programs using public school resources and dual (public and nonpublic) enrollment programs. After assessing the relative importance of government aid, the author analyzes government regulation of nonpublic education. Regulations both independent of public aid and ties to public aid are reviewed. The regulations independent of public aid involve the regulation of general business practices and the regulation of educational practices, including state compensatory education standards and requirements for minimum curricula and teacher certification. Policy options, including tax credits and vouchers, are discussed in the paper's conclusion. (RW)

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PUBLIC FINANCE AND REGULATION OF NONPUBLIC EDUCATION: RETROSPECT AND PROSPECT

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Abstract

The issue of governmental involvement in nonpublic education is commonly expressed as a choice between whether private schools should or should not be supported by public funds or subjected to public regulation. This perspective ignores an important historical fact: the issue of government treatment of nonpublic education has never been, in the U.S., a question of whether the federal government or several state governments should or should not finance or regulate nonpublic education. Rather, it is a question of how and how much. This paper will begin to explore a broad array of financial and regulatory policies, both existing and proposed, that may shape government involvement in nonpublic education. Within this framework, tuition tax credits represent one of many possible policy options, options that range from doing nothing to installing a full system of educational vouchers and monitoring devices.

Government treatment of nonpublic education in the United States has never been a question of whether the federal or state governments should finance and regulate nonpublic schools.[1] Rather, the question has always been how and how much. In an effort to inform current debate, this essay will explore existing forms of government aid to nonpublic education and their magnitude, and existing forms of government regulation of nonpublic education and their scope.

Two themes will emerge from this analysis. First, government involvement in nonpublic education is greater than current debate surrounding tuition tax credits would suggest. Much of our ignorance concerning the magnitude and scope of that involvement is attributable to the paucity of information available, the wide variation in funding and regulation in different places and types of schools, and the rapid changes in public policy toward the private sector in education during recent years. To overcome these problems the analysis will rely on documentation provided by some pioneering work done several years ago, bits and pieces of data drawn from a variety of sources, and much conversation with public and private school officials.

The second theme is that public finance and public regulation are intertwined. Indeed, the interrelation of finance and regulation has increased over time. All direct and indirect aid programs regulate their recipients in some way, though the degree of regulation varies greatly

across programs and locales. Any discussion of the sources, purposes, and recipients of aid inevitably leads to a discussion of the sources, purposes, and subjects of regulation. The conclusion of the paper will interpret this connection between funding and regulation in order to assess the larger policy context within which tuition tax credits must operate if they pass legislative and judicial muster.

GOVERNMENT AID TO NONPUBLIC EDUCATION

Policy Issues

The principal sources of public financial support are indirect financial support through tax policies and direct financial support through fiscal policies. Indirect aid occurs when government refrains from taxing either revenues or properties of private institutions, thus increasing the total disposable income of private schools. Direct aid occurs when governments either pay nonpublic schools for services rendered to students or extend publicly funded services to students who attend nonpublic schools. Whether funds are actually transferred, an implausible option in many states,[2] or whether "in kind" services are provided instead of cash transfers, a more likely prospect, nonpublic education is subsidized through public funds administered by public agencies.

The providers of public aid to nonpublic education are governments at all levels--federal, state, county, city, district. The type of program and the magnitude of aid vary widely, and there is also variation in the types of agencies that administer such programs. While numerous programs

are administered by education agencies, many fiscal programs, in addition to all forms of indirect aid through tax policies, are administered by agencies whose primary responsibility is not the provision of educational services. These agencies range from local health and welfare departments to state agricultural departments to the federal Internal Revenue Service.

What are the purposes for which public aid may be used? At one extreme, indirect aid through current tax policies impose little public control over the internal allocation of funds retained or revenues generated as a result of a school's tax-exempt status. At the other extreme, nonpublic schools have little control over publicly funded and publicly provided services ("in kind" services) to students attending their schools. Between these two extremes are government programs that provide direct aid that can be allocated by the nonpublic school for a variety of broadly stated purposes.

The primary recipients of public aid for nonpublic education are the schools that provide educational services and the students and parents who are consumers of these services. In the first set of programs, nonpublic schools are treated in much the same way as their public school counterparts by federal, state, and local authorities. This usually implies that direct grants are made to schools to offset the costs of providing selected services. In the second set of programs, students who attend nonpublic schools are treated like their counterparts in public schools, receiving the same publicly funded (and often publicly administered) services.

What is the magnitude of the aid provided? Discussion of public aid is meaningless without reference to its relative contribution to expenditures in the private sector. A distinction is usually drawn between aid in proportion to educational costs faced by a given school or individual, and aid in proportion to the total cost (presumably a function of total income) of nonpublic education generally. One extreme is the absence of any direct or indirect government funding of nonpublic education, as is the case with some proprietary nonpublic schools. On the other extreme is a system of educational vouchers that can be redeemed at any school without additional charge. Such a program currently exists in states that pay private school tuition in the absence of public facilities for special education, or for students in geographically isolated regions. For most nonpublic schools, which are between these two extremes, any estimate of the relative magnitude of government aid must be approached cautiously because of the difficulties encountered in calculating nonpublic school finances.[3] The last comprehensive study of government aid to nonpublic education was completed by a presidential commission in 1972 using 1970-71 estimates.[4] All subsequent studies, including the present one, rely on this data base as their point of departure.[5] Using these data, Table 1 estimates the magnitude of government aid to nonpublic education.

TABLE 1

Estimated Government Aid for Nonpublic Education
1970-71

Sources of Aid	Amount (millions $) FY 1971	Average Per Pupil Subsidy, 1970-71	% Total Nonpublic School Income[3]	% Gov't. Aid to Nonpublic Education
Federal Government				
Indirect Tax Deductions	126.3	$ 23.91	5.1	19.5
Direct Program Expenditures	99.4	18.82	4.0	15.3
Subtotal	225.7	$ 42.73	9.1	34.8
State Governments				
Indirect Tax Deductions	6.3	$ 1.19	0.3	1.0
Direct Program Expenditures	207.7	39.32	8.5	32.0
Subtotal	214.0	$ 40.51	8.7	33.0
Local Governments				
Indirect Tax Exemptions	207.4	$ 39.26	8.4	31.9
Direct Program Expenditures	2.1	0.40	0.1	0.3
Subtotal	209.5	$ 39.66	8.5	32.2
Total All Governments				
Indirect Tax Deductions/Exemptions	340.0	$ 64.36	13.8	52.4
Direct Program Expenditures	309.2	58.53	12.6	47.6
Total	649.2	$122.89	26.4	100.0

Source: Daniel J. Sullivan, Public Aid to Nonpublic Schools (Lexington, Mass.: D. C. Heath, 1974), Table 5-1, p. 93; President's Commission on School Finance, Public Aid to Nonpublic Education (Washington, D.C.: The Commission, 1971).

Note: [4] Defined as the dollar value of all income and budgeted services provided by all direct and indirect, government and private sources. Excludes non-monetized "contributed services" and "off-the-budget" financing provided by associated institutions. For further details see footnote 5.

These benchmark figures will serve as the basis for comparing a variety of aid programs.

Indirect Aid through Tax Policies[6]

It is the general policy of federal, state, and local governments to grant tax-exempt status to educational, religious, and charitable organizations, groups or institutions. More than 95 percent of nonpublic schools are exempt from local property taxes, as are other nonprofit private institutions. In Walz v. The Tax Commission (1970), the U.S. Supreme Court upheld the constitutionality of tax exemptions for church-owned property, though conceding that tax exemptions are indirect financial support for religious organizations. According to available estimates of nonpublic school income in 1970-71, 32 percent of all government aid to nonpublic education was derived from local property tax exemptions. As a result, local property tax deductions alone provided

roughly $8.40 of every $100 of total nonpublic school income from all direct and indirect, public and private sources during 1970-71. The subsidy from this source has probably grown during the past ten years since local property values have increased at a rate faster than inflation, thereby increasing the value of local property tax exemptions.

Similarly, certain revenues, including charitable contributions made either indirectly to churches or directly to nonprofit-nonpublic schools, are deductible from individual income subject to federal and, to a lesser extent, state income taxes.[7] Over two-thirds of the states have tax exemptions for religious, charitable, or educational purposes. However, by comparison, the value of these combined federal and state tax "subsidies" was half that of local property taxes during 1970-71. The relative magnitude of this aid probably did not grow appreciably during the remainder of the decade. Since 1970, charitable contributions as a proportion of total nonpublic school revenues have fluctuated, with a significant downturn during the mid-decade recession from which private giving only recently recovered.[8]

Since schools only implicitly count these tax breaks as revenues and governments do not count them as budgetary expenditures, the total value of indirect subsidies is not readily available. Sullivan (see Table 1) estimated that exemptions from local property taxes and deductions from state and federal income taxes together amounted to $340 million, $64 for every nonpublic school student in indirect subsidies from government tax policies during 1970-71. This amounted to approximately 14 percent of the total nonpublic school income from all direct and indirect, government and

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nongovernment sources in that academic year. This indirect aid accounted for more than half of all government aid to nonpublic education.

Direct Aid through Fiscal Policies[9]

In addition to indirect funding through tax policies, virtually all remaining government financial aid to nonpublic education is in the form of direct budgetary expenditures for specific categories of assistance. Over two-thirds of these budgetary expenditures came from state governments during 1970-71. New York state alone provided $84 million of the $309 million budgeted for direct assistance by all governments in that academic year.[10] Most state and federal programs, especially those that have withstood challenge in the courts, are "child benefit" or "child welfare" programs. Over 33 states offer such programs to enhance the student's well-being irrespective of the school the student attends.[11] In addition, over a dozen federal programs directly or indirectly assist nonpublic school students.[12]

While most nonpublic schools take advantage of government tax policies, a much smaller number are able to take advantage of programs that provide direct aid.[13] This is because programs do not directly aid nonpublic schools, but are designed to benefit targeted student populations. Moreover, the majority of these programs are not administered by private schools, but are distributed by local agencies as publicly funded and publicly administered "in kind" services to a relatively small number of nonpublic school students. Since there is no transfer of funds to private schools, these services do not appear in the

expenditure records of nonpublic schools. Therefore, the following estimates of governmental fiscal aid to nonpublic education provide at best an indication of the relative priorities assigned by state governments and, to a lesser extent, federal and local agencies to each of several "child benefit" programs. The programs are outlined in the order of their relative magnitude of aid.

State Programs

Transportation Services. During 1975, laws in 15 states explicitly authorized publicly operated transportation for nonpublic school students; 14 more states authorized transportation services under certain well-defined contingencies.[14] For example, in three states public transportation is provided only to those nonpublic school children who reside along established routes of public school buses. In addition, most states provide publicly funded transportation services for exceptional children enrolled in special education programs. It is estimated that the provision of the full range of state transportation services accounted for over one-quarter ($51 million) of all state budgetary expenditures for nonpublic education during 1970-71.[15] Since transportation is not normally included in private school tuitions in some locales, the provision of these services may mean important savings for parents who have chosen to send their children to nonpublic schools.

Special (Handicapped) Education Programs. These programs assist a limited population of nonpublic school students and an even smaller number of nonpublic schools. In all 50 states, handicapped education has been

treated like other "child welfare" programs, with benefits channelled through the student's parents in the form of vouchers and other reimburseable grants. In addition, 23 states by 1975 also mandated some form of direct state financial support of private institutions that maintained facilities for special education.[16] In most instances support was also provided for special classes, specially trained staff, pupil transportation, and a variety of other special educational services and materials.

In 1970-71 it was estimated that these programs accounted for another fifth (approximately $42 million) of all state budgetary expenditures for nonpublic education.[17] Since then there has been a dramatic increase in litigation instigated by students and parents in state and federal courts to require that school districts provide special education programs. This litigation prompted the enactment of a large body of laws designed to benefit exceptional or handicapped children. All of this legislative and judicial activity over the past decade has probably increased the relative level of state assistance above those levels estimated for 1970-71. The dollar value of publicly funded services for handicapped children enrolled in nonpublic schools may even now exceed the value of state transportation services, making handicapped education programs the largest component of state budgetary expenditures for nonpublic education during the 1980s.

Textbook (and Other Instructional Materials) Programs. The provision of secular textbooks to nonpublic school students is another important "child benefit" program that does not transfer funds directly to nonpublic schools but does reduce that school's cost of operation. As of

1975, eight states provided secular textbooks to students attending nonpublic schools; eight more states recommended that local education agencies provide textbooks under certain conditions.[18] To illustrate the first pattern, the Louisiana state constitution provides for the distribution of free textbooks to all children in the state. On the other hand, in Texas free textbooks are distributed by local school districts to visually handicapped children attending nonpublic schools. The recent state supreme court ruling that struck down California's textbook loan program suggests, however, that the value of these programs will probably not increase appreciably in the near future.

Health and Welfare Services. A few states also provide health and welfare services administered by public agencies to students enrolled in nonpublic schools. These services include regular visits of public school nurses to nonpublic schools, the immunization of nonpublic school students, tuberculin tests for nonpublic school teachers, and classes for nonpublic school students in hygiene and nutrition. Only three states--Connecticut, Michigan, and New York--provide equal health and welfare services to students enrolled in public and nonpublic schools. Again, the provision of such publicly funded services augments the operations of nonpublic schools and redirects school resources to other uses.

Other State Programs. Various other forms of public aid for nonpublic schools, nonpublic school children, and their parents exist in several states.[19] For example, provisions for granting auxiliary services such as guidance, counseling, or testing to nonpublic school

students are found in the statutes of some states. South Carolina and Virginia also provide state scholarships and loans on a competitive basis to selected students attending nonsectarian private secondary schools. In a few states, such as Vermont and Alaska, public funds are made available to nonpublic schools in the form of tuition vouchers when no public high school is available. A number of states include nonpublic school students in state driver education courses; in most instances the tuition costs are paid by the state to encourage students to receive instruction in state-accredited programs.

Federal Programs

Compensatory Education Programs. The lion's share of federal aid to education, both nonpublic and public, is provided through Title I of the Elementary and Secondary Education Act (ESEA) of 1965, as amended. With ESEA Title I, Congress adopted the "child benefit" approach to funding education. Earlier programs--for example, the nutrition and science programs discussed below--benefited private school students by placing publicly funded resources under the control of private institutions. But with ESEA Title I, a formula was used to distribute aid to public school districts and school attendance areas according to the concentration of school-age children (and not just public school students) from low-income families.

Under ESEA Title I, nonpublic school students residing in eligible public school attendance areas are eligible for Title I services if they meet the criteria used by the local public schools to determine

educational deprivation. (For a discussion of the services provided, see "Local Programs" below.) In 1970-71, the U.S. Office of Education estimated that three percent of total federal Title I budgetary outlays were spent on services provided to nonpublic school students. This amounted to 44 percent ($44 million) of all federal programmatic aid for nonpublic education.[20] Most of this aid went to inner-city Catholic parochial schools where most nonpublic school students from educationally and economically deprived backgrounds are enrolled. Therefore, the magnitude of Title I aid varied greatly across schools. On one extreme, Catholic schools in San Francisco received almost $500 in services for every Title I student enrolled in their school--a sum that rivaled Catholic school tuition in magnitude. On the other extreme, nonsectarian independent schools received no Title I services.[21]

Child Nutrition Programs. While compensatory education augments the instructional program of nonpublic school students, the school lunch, breakfast, and milk programs are the largest non-instructional programs operating in nonpublic schools and funded by the federal government. These programs, administered by federal and state agricultural agencies, distribute surplus agricultural commodities at subsidized rates to low-income students in both public and nonpublic schools. From an administrative perspective, these programs are unique in that they give public resources and control to nonpublic schools and pay these schools to administer the program.[22]

Taken together, all three child nutrition programs accounted for a third of all federal direct programmatic expenditures on nonpublic

education during 1970-71. This represented approximately $33 million, or 4.4 percent of total federal budgetary outlays for all child nutrition programs operating in public and private schools during 1970-71. Since certain states (e.g., California and Wisconsin) supplement federal grants to child nutrition programs, the value of these programs is probably larger than estimated here. As with aid distributed through ESEA Title I, most federal child nutrition aid went disproportionately to inner-city schools; among nonpublic schools, this again meant that students attending inner-city Catholic parochial schools were the single largest group of beneficiaries.

Instructional Material and Auxiliary Service Programs. According to U.S. Office of Education estimates, the third largest component of federal fiscal aid to nonpublic education during 1970-71 was aid for purchasing books, equipment, and supplementary services under various titles of the Elementary and Secondary Education Act, especially ESEA Title IV-B. From the perspective of nonpublic school administrators, Title IV-B has remained one of the most flexible and popular of all federal education programs throughout the 1970s. In 1970-71 this aid amounted to one-fifth ($23 million) of all federal programmatic aid for nonpublic education, or 8.4 percent of federal funds allocated to all school districts for instructional materials and auxiliary services during that academic year. There is reason to believe that federal aid for instructional materials is more widely distributed across the spectrum of nonpublic schools than aid provided through any other federal program discussed thus far. According to a recent report, services provided under

ESEA Title IV-B are now used by a majority of nonpublic school students attending a majority of nonpublic schools.[23] Even so, nonpublic school participation in this federal program appears to be uneven nationwide; participation varies from a high of 100 percent in one state to 10 percent in another.[24]

Special (Handicapped) Education Programs. As early as 1963, the federal government offered subsidies for up to 75 percent of the total costs associated with the construction of private facilities designed to operate special education programs.[25] Social Security payments for these services were also substantially increased that year. Twelve years later, following a spate of judicial suits and selective state legislative activity, the Education for All Handicapped Children Act of 1975 greatly expanded the federal role, and made private institutions equally eligible with public ones for federal monies. Under the Act, states and local education agencies must insure that all handicapped children in their jurisdiction, regardless of where they are enrolled in school, are identified, located, and evaluated without charge. The state must also insure that each local agency distributes a portion of its funds to provide necessary services for students attending nonpublic schools. The state or locale may choose to contract with private schools for the provision of services not provided in the public sector. While estimates of the value of this federal program to nonpublic education are not available, its importance for selected schools and students is undoubtedly great, especially when combined with more extensive state programs.

Science Programs. In sharp contrast with the "child benefit" programs discussed above, the first direct federal aid to nonpublic schools came into existence much earlier with the passage of the National Defense and Education Act (NDEA) of 1958. NDEA provided low-interest, long-term loans to private schools for the purchase of science-related equipment, while simultaneously providing outright grants to public schools for similar purchases. However, by the end of the first three years of operation, only 8 percent of the loans available to nonpublic schools were committed, suggesting that this set of programs had a marginal impact on nonpublic education.[26] NDEA also directly subsidized the salaries of private school teachers and provided them with a number of indirect subsidies such as the cancellation of portions of teacher education loans. Even though these subsidies were terminated during the 1970s, NDEA is important historically because of what it represented--a program of direct aid with broad discretion.

Other Federal Programs and Recent Legislation. Though the Vocational Education Act was enacted in 1963, it took amendments in 1968 to provide "child benefit" services to nonpublic school students.[27] Even though these amendments improved prospects for dual enrollment, a recent study concluded that it is difficult for nonpublic schools to apply for this program since their participation is contingent upon a larger public school program.[28] The same conclusion was reached concerning nonpublic school involvement in federal bilingual education (ESEA, Title VII) programs. However, in the latter case, local education agencies are required to consult with nonpublic school representatives about the needs

of nonpublic school children, and comparable services must be provided to them.

More recently, under the terms of Part II of the Education Consolidation and Improvement Act of 1981, several federal categorical aid programs are now consolidated into one block grant to the states. Several of these programs had previously mandated, under certain conditions, the participation of nonpublic school students in local policy implementation.[29] In addition to federal funds for school libraries and instructional resources (ESEA Title IV-B) discussed above, the largest of these now-consolidated programs include basic skills programs (ESEA Title II), programs for the improvement of local educational practices (ESEA Title IV-C), desegregation assistance through the Emergency School Aid Act, and Teacher Corps. As a result of grant consolidation and, concomitantly, regulation repeal, there is now no federal requirement that state or local education agencies fund any one of those programs consolidated. This suggests that nonpublic school aid formerly derived from any of these sources may not be forthcoming, depending upon local circumstances.

However, one notable exception to the bill's aversion to regulate state and local agencies is the section in the new law pertaining to the participation of students attending nonpublic schools. This section, one of the longest in the current Act, requires that states and localities share more federal funds with private schools, and grants nonpublic schools greater leeway to bypass recalcitrant local agencies in the schools' pursuit of consolidated funds. Moreover, the administrative body

appointed by the governor and charged with allocating Part II monies must, according to the Act, include nonpublic school officials among its members. Even Part I of the 1981 Act (formerly ESEA Title I) grants nonpublic school students greater access to public funds. While funding for all of these federal programs will be reduced relative to 1981 levels, provisions for greater nonpublic school access to available funds will ameliorate some of the losses in local funding that will occur, leaving public schools to bear the brunt of the cuts.

Local Programs

"Child Benefit" Programs. Since most state and federal programs of financial aid to nonpublic education channel their monies through local education agencies and draw no distinction between students enrolled in public and private schools, these programs inevitably help shape local public-private school relations. Several local aid programs, especially those mandated by state and federal legislation, are designed to provide students enrolled in nonpublic schools with services also available to public school students. The extension of services to handicapped or economically disadvantaged students attending nonpublic schools illustrates this type of local "child benefit" program, one that involves publicly funded but privately operated services. Service arrangements include the loan of equipment to private schools, payment of salaries of private school personnel, and the use of public school personnel on private school premises.

Local public-private school relations concerning this type of "child benefit" program are illustrated by the implementation of ESEA Title I programs. Local public school districts were given wide discretion over the criteria used to identify eligible students, over the approach used in diagnosing student learning problems, and over the provision of services, staffing, and evaluations provided by educational institutions within the district's boundaries. The Act also mandated for the first time in federal legislation the involvement of nonpublic school representatives in the planning of local programs; these representatives must "sign off" on the program before it is implemented. This allowed nonpublic schools to become actively involved in needs assessment, student identification, and service design. Various "bypass" procedures are available when local educational agencies fail to provide services to nonpublic school students.

The implementation of Title I in the San Francisco Unified School District illustrates how public-private relations are actually carried out.[30] There, compensatory education services were provided for 2,903 nonpublic school students in 25 nonpublic schools during the 1980-81 academic year. The total budgetary allocation for these nonpublic school services was approximately $1.4 million, or $476 for each Title I student enrolled in nonpublic schools in San Francisco. This $1.4 million amounted to 15 percent of the school district's total allocation of Title I monies during that year; most of this funding (96 percent) went to Catholic parochial schools. These Title I expenditures paid for 157 part-time paraprofessionals (mostly three-quarter or half-time

instructional aides), two full-time psychologists, one half-time reading specialist, and one half-time resource teacher--all of whom were paid out of public funds (from federal and matching state and local sources) for the services that they delivered exclusively within private schools. The district also detailed additional public personnel to carry out other functions in private schools (e.g., program evaluations) at erratic intervals.

Dual Enrollment Programs. Numerous programs that may be independent of state and federal mandates combine the resources of public and private schools in the provision of local educational services to all students who attend schools in the district. These programs usually enroll students simultaneously in public and nonpublic schools. Dual enrollment was defined by a 1965 U. S. Office of Education study as "an arrangement whereby a child or youth regularly and concurrently attends a public school part-time and a nonpublic school part-time, pursuing part of his elementary and secondary studies under the direction and control of the public school and the remaining part under the direction and control of the nonpublic school."[31]

Release-time and shared-facilities are variants of the same approach. In a 1964 report, the National Education Association (NEA) reported that at least 183 public school systems in more than 25 states allowed pupils from nonpublic (especially Catholic) schools to take public school instruction in one or more subjects during the regular school day.[32] The subjects most frequently provided--science, industrial arts, vocational education--required expensive equipment and supplies and

special facilities not available in many nonpublic schools. In addition to supplementing nonpublic school course offerings, one goal of dual enrollment programs was financial; local dual enrollment programs may involve a nonpublic school facing a financial crisis in a community where public schools apparently could not afford to assimulate all the nonpublic school students.

Available evidence suggests that dual enrollment programs were still in operation through the 1970s. At least 19 states in 1970 provided aid to public school districts operating dual enrollment programs.[33] In California, for example, the state education code (Sec. 5665) requires that public high schools "admit pupils regularly enrolled in nonpublic schools to enroll in vocational and shop classes and in classes relating to the natural and physical sciences." As noted above, a number of other states include nonpublic school students in publicly funded and operated driver education programs.

While most earlier dual enrollment programs involved nonpublic school students taking courses part-time in public facilities, a recent twist to this strategy involves the part-time instruction of public school students in private facilities. In 1974 the federal vocational education program was amended to provide public school students with part-time vocational training with private vocational training institutions.[34] Likewise, certain local school districts enter into agreements with private contractors for the provision of driver education programs. In the early 1970s, performance contracting for math and reading programs was another variant of this strategy.

While earlier dual enrollment programs often involved the sharing of public facilities with students enrolled in nonpublic schools, recent declines in public school enrollments have witnessed the complete takeover of certain public facilities by nonpublic schools. Across the country, local school districts have begun to lease recently closed public schools to nonpublic schools. These leasing arrangements provide rents that augment the budgets of public school districts, and may provide subsidies to nonpublic schools in the form of lower capital costs.

The Importance of Government Aid

Public financial support for nonpublic schools, for nonpublic school children and for the parents of these children already exists in the absence of tuition tax credits. At all levels of government, tax deductions and exemptions indirectly bolster the total operating budget of nonproprietary, nonpublic schools. Fourteen states provide financial aid to nonpublic schools or to their students, including states that pay private school tuition in the absence of public facilities, and 33 states offer at least some "child welfare" benefits, such as transportation, to nonpublic school children. Another dozen federal programs directly or indirectly assist nonpublic school students. At the district level, local programs of every size and shape not only implement state and federal policy, but move beyond them in scope to serve local needs.

According to estimates summarized in Table 1, governments at the federal, state, and local levels during the 1971 fiscal year provided 26.4 percent of total nonpublic school revenue from all direct and indirect,

public and private sources. The distribution of this aid varied widely across schools of different types, with Catholic parochial schools and their students receiving a disproportionate share of available public aid. For every dollar in tuition paid by each student in Catholic elementary and secondary schools during 1970-71, the government subsidy represented an additional 69 cents. If this government contribution were removed and the services left intact, average per-pupil cost in Catholic schools, estimated at $307 for 1970-71, would have risen by at least 40 percent. These figures, which are at best benchmarks, probably over-estimate the relative financial contribution by governments at all levels to nonpublic education generally and to individual schools specifically. Nevertheless, even accounting for various difficulties and possible omissions, the importance of the government as a contributor of aid to nonpublic education still remains high, certainly higher than the current debate surrounding tuition tax credits would otherwise suggest.

GOVERNMENT REGULATION OF NONPUBLIC EDUCATION

Policy Issues

Along with the expansion of public aid programs there has been a proliferation of public regulatory policies that are imposed when public aid is received. Almost all direct and indirect financial aid programs regulate their recipients in some way, placing constraints on the generation and allocation of financial resources, or on the use of publicly funded "in kind" services. While public finance and public regulation are intertwined, there are also numerous federal, state, and

local policies that regulate without providing aid. These regulations may be applied to all profit and nonprofit business undertakings, or they may be applied exclusively to educational institutions.

What are the purposes of regulation? Regulations that apply to all regular business practices may be imposed on proprietary and nonprofit undertakings alike to insure compliance with laws concerning public health and safety, commercial and residential zoning, truth in advertising, employment practices, affirmative action, business licensure, and procedures for adjudicating conflict between business and client. When discussion shifts to regulations affecting educational practices, then issues of compulsory education, student admissions, curriculum content, and personnel qualifications become important. These regulations inevitably shape the instructional program of nonpublic schools and help to define what a school is.

Who are the principal regulators? Governments at all levels--federal, state, county, city, district--regulate nonpublic education. The types and scope of regulations vary widely across these levels. Moreover, at any given level of governmental authority, there is wide variation in the agencies that regulate nonpublic education. In addition to local, state, and federal education agencies, these regulatory bodies range from local zoning commissions to the Internal Revenue Service.

To answer the question of who is regulated, attention must be focused on schools as institutions and on the schools' clients, including parents and students, and other school clientele, including financial benefactors. Most general business regulations that are imposed in the absence of

public aid are applied to schools as institutions. Yet, business regulations tied to public aid, especially aid through tax exemption, may also be imposed on third parties. For example, private donors to nonpublic-nonprofit schools cannot claim tax deductions for their contributions if the school fails to retain its tax-exempt status, and such controls influence the generation of income by nonpublic schools. Educational practices may be controlled through strictures imposed either on schools or on students and parents. For example, compulsory school attendance laws may be enforced by closing schools that fail to satisfy state standards, or they may be enforced against the students and their parents to prevent attendance at substandard schools. Such educational regulations may be imposed with or without public aid attached to compliance.

Regulations Independent of Public Aid

Regulation of General Business Practices

Local, state, and federal agencies regulate nonpublic schools through business statutes that apply generally to all proprietary and non-proprietary educational and non-educational institutions. Most of these regulations are administered by agencies that range from the local zoning and building commission to the Equal Employment Opportunity Commission. As applied to nonpublic schools, these government regulations have two general objectives. The first is based on the rationale that governmental controls over the physical environment of private businesses are as necessary for the public's protection from actions of nonpublic

schools as they are for the public's protection from any other private business. Thus, buildings used for educational purposes are required in all states to satisfy state and local building, fire, health, sanitation, child welfare, and zoning codes. While most of these codes are rarely invalidated by the courts, zoning regulations have been increasingly challenged by supporters of private education as the frequency of home study and conflict with local ordinances have grown.[35]

A second general objective of government regulation of nonpublic schools is based on the rationale that parents and students need valid criteria by which to choose private schooling, and that business regulations are as necessary here as they are in other sectors of the service economy (e.g., health care delivery). Protection of the public from fraud is often sought by private schools that want to protect reputable institutions from questionable practices by other schools. In response to these demands, all 50 states require that nonpublic elementary schools register with the state department of education and provide certain records and reports.[36] At a minimum, nonpublic schools must furnish the state with pupil attendance records and grades of instruction; these records are often supplemented by information on the number of teachers employed and the courses of study offered.

While such records are available to the general public, it is clearly understood that registration does not imply approval. To secure approval, 40 states have established a range of voluntary and involuntary procedures for nonpublic school licensure (see Table 2). Of these, 5 states administer mandatory accreditation programs, 23 more mandate that selected

nonpublic schools conform to state department of education requirements to secure approval, and an additional 12 states grant approval at the request of a nonpublic school. Licensure in most states, whether voluntary or not, requires that nonpublic schools maintain the same minimum standards of educational practice that are applied to public schools.

TABLE 2

State Regulatory Policies Affecting Nonpublic Education

Policies	Number of States Adopting Policies
Licensure	
Mandatory Accreditation	5
Mandatory Approval	23
Voluntary Licensure	13
Records and Reports	
Attendance Records only Required	37
Additional Records Required	23
Special Health and Safety Requirements	36
Compulsory Education Standards	
Mandatory Standards	38
Noninterference	12
Curriculum Requirements for Selected Schools	46
Teacher Certification Requirements	
Mandatory	13
Voluntary	26
Noninterference of Any Type	12

Source: Charles J. O'Malley, "Governance of Private Schools," Private School Quarterly (Summer 1981): 12-15; Bascomb Associates, State and Federal Laws Relating to Nonpublic Schools (Washington, D.C.: Office of Education, 1975), pp. 26-31.

Regulation of Educational Practices

In Pierce v. Society of Sisters (1925), the U.S. Supreme Court reiterated the government's power to regulate nonpublic schools:[37]

> No question is raised concerning the power of the state to reasonably regulate all schools, to inspect, supervise, and examine them, their teachers and pupils, to require that all children of proper age attend some school, that teachers should be of good moral character and patriotic disposition, that certain studies plainly essential to good citizenship must be taught and that nothing be taught which is manifestly inimical to the public welfare.

To illustrate the range and frequency of regulations pertaining to nonpublic elementary and secondary schools, state statutory provisions are summarized in Table 2. Of these, three sets of regulations merit close scrutiny because they ultimately shape the definition of a nonpublic school.

State Compulsory Education Standards. The question of state regulation of nonpublic schools became salient with the passage of legislation requiring all children within specified age limits to attend school. If the state forced every child to go to a school, be it public or nonpublic, then it was argued that all schools had to meet minimum educational standards. In keeping with this obligation, 49 states and the District of Columbia require compulsory school attendance; only Mississippi makes attendance voluntary.

State compulsory education statutes may be divided into two categories outlined in Table 2. Twelve states accept prima facie that nonpublic schools satisfy the state's compulsory attendance provisions, and they make few demands on these schools. In contrast, a majority of

states require that nonpublic schools satisfy educational standards determined by the state department of education in order to comply with the state's compulsory attendance provisions. Standards include subjects of study, instructional materials, minimum length of school day and year, personnel qualifications, and course requirements for graduation. Thus, in these states, nonpublic schools must demonstrate that their instructional program is equivalent to that provided in the public schools. Various sanctions exist to insure compliance with the "equivalency" principle, though the methods of enforcement vary across states. Fourteen states can close schools violating state regulations, while 17 additional states, having no such direct sanctions, enforce compulsory attendance laws against the students or their parents to prevent attendance at substandard schools.[38]

Minimum Curriculum Requirements. The most common and, critics say, troublesome application of the "equivalency" principle requires nonpublic schools to teach courses comparable to those in public schools. The minimum curriculum regulations of most states require that nonpublic school students meet the same standards deemed necessary for their public school counterparts to satisfy the compulsory attendance laws of the state. In the name of "equivalency," most states require instruction in certain specified courses. The number of states that mandate certain educational standards or specific curriculum requirements has grown over time. In 1965, 31 states regulated curricula; by 1975, according to Table 2, this number had grown to 46. These codes vary widely in how much they specify instructional standards and enforcement procedures. In 1965 ten

states specifically defined required courses, while an additional 21 demanded various degrees of equivalence. According to Table 2, the number of states in each of these categories had increased by 1975.[39]

Teacher Certification Requirements. Determining who is competent to teach in schools, how competence can best be developed, and who is qualified to judge competence are all hotly debated issues. The "equivalency" principle focuses concern on whether teachers of nonpublic schools should be required to undergo the same training and acquire the same knowledge and skills as teachers in public schools. Of the 38 states in 1980 that required nonpublic schools to satisfy the "equivalency" principle, Alabama, Hawaii, Kansas, and North Dakota also required that all nonpublic school teachers be certified by that state's department of education in order to comply with its compulsory education mandate. And of these 38, an additional 9 also required that nonpublic school teachers of all non-religious subjects receive department of education certification. That brings a total of 13 states requiring some form of teacher certification for most nonpublic schools to operate during 1980, up from 6 states during 1965. Another 26 states also provided nonpublic school faculty with the opportunity to seek state certification voluntarily. Moreover, states like Oklahoma, with more limited standards and enforcement procedures, require that nonpublic schools employ state-certified teachers before they apply for voluntary state approval.[40]

Regulations Tied to Public Aid

Compliance with the various regulatory policies outlined above may be closely tied to the provision of public financial aid to nonpublic education. In fact, the trend over time has been toward more aid with strings attached (i.e., "tied aid"). Even indirect tax subsidization may beget direct regulation. The Internal Revenue Service (IRS) and its state counterparts are regulators, and the potential sanctions at their disposal include the total loss of the school's tax-exempt status and the concommitant loss of contributions from donors and from proceeds associated with school business and property holdings. Such a loss would affect a school's income in ways not associated with the imposition of court fines for not obeying other types of regulations, or with the loss of aid from "child benefit" programs. IRS rulings have ranged from restricting political lobbying activities of nonpublic schools to restricting segregationist admissions policies.

The latter restrictions merit closer examination.[41] Current tax benefits to nonpublic schools have been viewed by civil rights advocates as mechanisms that frustrate the future desegregation of nonpublic schools. With Green v. Connally (1970), the U.S. Supreme Court forced the IRS to reconsider whether all nonpublic schools were charitable organizations. Following Green, the IRS adopted nationwide procedures in line with the Supreme Court's reasoning. Only schools with racially nondiscriminatory admissions policies were eligible for tax exemptions from the IRS. Under pressure from civil rights groups and certain government agencies, including the Office of Civil Rights and the Equal Employment Opportunity Commission, the IRS in 1978 proposed more stringent

rules to compel nonpublic schools to take more aggressive steps toward desegregation. Schools that did not comply would be threatened with the ultimate sanction, removal of their tax-exempt status. After reviewing the proposed guidelines, Congress passed an amendment that denied the IRS the funds necessary to enforce the new guidelines. The same issue has surfaced repeatedly in subsequent sessions of Congress.

In addition, many states that attempt to regulate the curricula or teacher qualifications in nonpublic schools, including many of those states with more limited regulations and enforcement procedures, require that nonpublic schools comply with these regulations before their students can receive "in kind" services from state and local agencies.[42] Nowhere is this more apparent than in the operation of state and federal categorical aid programs. While most nonpublic schools are affected by one or more of the regulatory policies outlined above, only a few of these schools, those whose students receive categorical funding, are affected by the myriad state and federal regulations attached to categorical programs. This small subset of nonpublic schools is subject to a greater degree of public regulation than are schools that receive no categorical aid.

Regulations governing nonpublic school participation in handicapped education and compensatory education programs illustrate the range of public controls that can be exercised over nonpublic education. In states like California with large programs in handicapped education, private special education schools are regulated in much the same way as their counterparts in the public sector. To qualify for funding, these schools must satisfy state teacher certification requirements, state minimum

curriculum requirements, state due process and student rights procedures, and so forth. In contrast, nonpublic schools whose students qualify for Title I funds face fewer regulations, but they still must submit to the authority of the local public school system charged with monitoring compliance, performing student evaluations, and funding services. This often means the preparation of detailed school-by-school program reviews by a special nonpublic schools Title I compliance review team of public and private school personnel.[43]

CONCLUSIONS

The important question underlying current debate over tuition tax credits is not whether nonpublic schools should or should not be supported by public funds. Rather, the essential policy issue is whether the federal government should provide additional aid for a sector whose constituent parts are already beneficiaries of varying magnitudes of public support. When aid from both direct and indirect government sources was added together using available data, it comprised an estimated one-quarter of total nonpublic school resources from all public and private sources during the 1970-71 school year. Given expanded aid programs over the last decade, it is very unlikely that the relative importance of government financial support diminished with time.

Moreover, since public aid and public regulatory policies are so inextricably intertwined, no discussion of alternative financial aid policies--including tuition tax credits--should overlook the probable

impact of expanded government regulation on the future operation of nonpublic schools. By 1975, for nonpublic schools to operate, 5 states mandated that they all satisfy state accreditation requirements, 13 states mandated that their teachers satisfy state certification requirements, and 46 states mandated that minimum curriculum requirements be satisfied. The frequencies of these and other regulatory policies have grown nationwide over the past two decades. While numerous additional regulations are either untied to aid or are directed at the non-instructional program of nonpublic schools, a second trend over time has been toward more "tied aid" and greater regulation of instructional programs. All programs of aid inevitably must determine standards of eligibility, the first step toward defining what a school is or should be. As suggested by IRS attempts to regulate nonpublic school admissions policies, subsidization through tax policies is an important vehicle for extending the scope of government control over the internal operation of nonpublic schools. Moreover, as regulators of nonpublic education, the impact of educational and noneducational agencies at all levels of government should not be overlooked in future debate over tuition tax credits.

As this discussion has made clear, the current debate over tuition tax credits needs to be expanded to encompass the larger policy context within which such a policy would operate if it were to pass legislative and judicial muster. Tuition tax credit would be a departure from existing federal tax policies. Under current law, tax deductions and exemptions provide an indirect source of aid for all nonprofit organizations, including most nonpublic schools. However, the Moynihan-

Packwood bill and the Reagan proposal would use tax policy to provide more direct aid to nonpublic education. It would do this by altering the primary recipients of tax subsidies. Instead of the school or that school's benefactors being the principal recipients of public aid, as is the case under present tax policies, both tax credit schemes would make the consumers of nonpublic education--parents who send their children to nonpublic schools--the direct beneficiaries. In this way, tuition tax credits begin to look like existing "child benefit" programs, except that they would not show up as federal budgetary expenditures.

This analogy has its limits, though. When one examines the purposes for which this aid may be used, tuition tax credits are merely an extension of existing tax policy. With the credits, there would be no apparent change in public control exercised over the school's internal operations. However, by employing federal tax policy as the principal source of aid to nonpublic education, tax credit proposals could alter the importance of the federal government and the Internal Revenue Service (IRS) as providers of aid. As noted earlier in Table 1, under the current system of aid the states and local governments provided almost two-thirds of all aid to nonpublic education during 1970-71. That configuration and the importance of the IRS would undoubtedly change with the adoption of tuition tax credits. With these changes would come an increase in the absolute and relative magnitude of federal aid.[44]

Compliance with government regulations is once again tied closely to the provision of public aid, and the trend over time has been toward more, not less "tied aid." Of course, with regard to the purposes of public

regulation, wide variation can be found across proposed alternative policies. The Reagan and Moynihan-Packwood tax credit proposals would extend the existing system of regulations concerning tax subsidization to cover the provision of the new aid. In the proposed legislation, tax benefits to parents whose child attends a nonpublic school would be denied if that school practices racial discrimination in its admissions policies. Similar prohibitions would be exercised in the Office of Economic Opportunity (OEO) and Coons-Sugarman voucher schemes.[45]

Perhaps one of the most important differences between the existing system of "tied aid" and tuition tax credit proposals is the expanded role to be played by the Internal Revenue Service (IRS) as the principal federal regulator of nonpublic education. When public funds are appropriated for an activity, then that activity is likely to come under much greater scrutiny than it would be if supported by revenues generated entirely within the private sector. This lesson is often forgotten among advocates of tuition tax credits who emphasize that the aid is to families and students, not to schools. Under current policy, schools are the targets of IRS oversight of prohibitions against nondiscriminatory admissions policies. Under the new proposals, IRS powers would be expanded to include the examination of the tax records of those who are the new targets of regulation, the parents of students attending nonpublic schools. Moreover, the definition of what is a "school," which must be written into the law, will circumscribe the type of activity that can be subsidized. As various kinds of liberties are taken with a tuition tax credit--such as its use by parents who are tutoring their own children in

the home--there will be increasing pressures to define in great detail what type of "school" is eligible for parental tax credits. Such intervention with respect to the constitutionality of the assistance or the internal operations of private schools represents an important expansion of the scope of regulation concerning nonpublic education. As the history of public support for private education suggests, that scope will only expand with growth in the magnitude of government financial aid.

Footnotes

1. This point has also been made by Otto Kraushaar. See his American Nonpublic Schools: Patterns of Diversity (Baltimore: Johns Hopkins University Press, 1972), pp. 289-90.

2. Several states are constitutionally prohibited from providing such aid to private institutions; see Bascomb Associates, State and Federal Laws Relating to Nonpublic Schools (Washington, DC: U.S. Office of Education, 1975), pp. 13-19.

3. These estimates, for example, ignore the number of "contributed services" offered by faculty and parents, and fail to account for "off-the-budget financing" associated with the administration and maintenance of church-related property. Another oversight of such estimates is that many government aid programs impose new regulations whose compliance costs reduce the benefit associated with the subsidy. Furthermore, since most public aid is provided to the local public school district to parcel among public and nonpublic school students, there is no separate accounting system for nonpublic school aid.

4. President's Commission on School Finance, Public Aid to Non-Public Education, (Washington, DC: The Commission, 1971).

5. See, for example, Daniel J. Sullivan, Public Aid to Nonpublic Schools (Lexington, MA: Lexington Books, 1974).

6. Sullivan, pp. 7-8.

7. Bascomb Associates, State and Federal Laws Relating to Nonpublic Schools.

8. Reported in Charles Clotfelter and Lester M. Salamon, The Federal Government and the Nonprofit Sector: The Impact of the 1981 Tax Act on Individual Charitable Giving. (Washington, DC: Urban Institute, 1981), p. 5.

9. For a review of these various policies, see Henry M. Levin, "A Decade of Policy Developments in Improving Education and Training for Low-Income Populations," in A Decade of Federal Antipoverty Programs, ed. Robert H. Haveman (New York: Academic Press, 1977), pp. 123-88.

10. Sullivan, p. 93.

11. Bascomb Associates, pp. 21-34; Thomas Vitullo-Martin, "Federal Policies and Private Schools," in Government in the Classroom, edited by Mary Frase Williams (New York: Proceeding of the Academy of Political Science, Vol. 33, no. 2, 1978), pp. 124-35.

12. Bruno V. Manno. How to Provide Students with Federal Education Program Benefits, (Washington, DC: National Catholic Education Association, Technical Assistance Institutes for the U.S. Department of Education, 1980).

13. For example, the National Association of Independent Schools reports that its member schools received less than 3% of their income from government sources; see, NAIS, Selected Statistics, pp. 3-8.

14. Bascomb Associates, Table 5, pp. 26-31.

15. President's Commission.

16. Bascomb Associates, Table 5, pp. 26-31.

17. Sullivan.

18. Bascomb Associates, Table 5, pp. 26-31.

19. This discussion is derived from Bascomb Associates, pp. 24-32.

20. President's Commission.

21. San Francisco Unified School District, Evaluation Report, ESEA

Title I, 1979-80, Non-Public Schools, (San Francisco: SFUSD, 1980); San Francisco Unified School District, "Summary of ESEA-I Programs in Non-Public Schools: 1980-81," (San Francisco: SFUSD, 1981).

22. Vitullo-Martin; Manno, pp. 129-31.

23. Manno, p. 7.

24. Rand Study, cited in Manno, p. 9.

25. Vitullo-Martin, pp. 128-30.

26. Ibid., p. 128.

27. Ibid.

28. Manno, p. 16.

29. Ibid.

30. San Francisco Unified School District, Evaluation Report, ESEA Title I, 1979-80, Non-Public Schools. (San Francisco: SFUSD, 1980); San Francisco Unified School District, "Summary of ESEA-I Programs in Non-Public Schools: 1980-81." (San Francisco: SFUSD, 1981).

31. Quoted in Donald A. Erickson and George F. Madaus, Issues of Aid to Nonpublic Schools. Vol. 3: Public Assistance Programs for Non-Public Schools, (Washington, DC: President's Commission on School Finance, 1972), p. 47.

32. Ibid.

33. Ibid., p. 29.

34. Bascomb Associates; Manno.

35. New Hampshire State Department of Education, "Summary of the Status of Home Education in the Fifty States," DOE Division of Instruction, mimeographed, 1980.

36. Bascomb Associates; Charles J. O'Malley, "Governance of Private Schools," Private School Quarterly (Summer 1981): 12-15.

37. Quoted in David L. Kirp and Mark G. Yudof, Educational Policy and the Law, (Berkeley, CA: McCutchan Publishing Company, 1974), p. 364.

38. John Elson. "State Regulation of Nonpublic Schools: The Legal Framework," in Public Controls for Nonpublic Education, ed. Donald A. Erickson (Chicago: University of Chicago Press, 1969), pp. 103-34.

39. Data for 1965 derived from Elson; data for 1975 based on Bascomb Associates, pp. 21-25.

40. Bascomb Associates, p. 32.

41. Editorial Note, "The Judicial Role in Attacking Racial Discrimination in Tax-Exempt Private Schools," Harvard Law Review 93 (December 1979):378-407.

42. Bascomb, p. 4-25, 32.

43. See footnote 21.

44. For estimates of the magnitude of the new aid, see David A. Longanecker, "Public Cost of Tuition Tax Credits" (Stanford, CA: Institute for Research on Educational Finance and Governance, 1981).

45. Unlike proposals calling for federal tuition tax credits, educational voucher plans have broader and more varied origins. The idea can be traced to the early writings of Milton Friedman (1962), whose novel idea was later modified by Jencks (1966), the Office of Economic Opportunity (1972), and Coons and Sugarman (1978). As a source of public aid, all voucher plans represent an expanded "child benefit" program of direct aid through direct budgetary expenditures. As in existing "child

benefit" programs and the proposed tuition tax credit plans, students and their parents would remain the principal recipients of government aid. Since most of the vouchers would be paid through state education expenditures, states (including state departments of education) would become the providers of aid, in contrast to the existing system of aid and tax credit proposals. Voucher schemes would also impose additional regulations of nonpublic school operations. For example, with regard to regulations affecting general business practices, a principal concern of voucher schemes is information dissemination and truth in advertising. While the Friedman plan makes no provision for information and the OEO plan provides extensive arrangements, the Coons-Sugarman initiative specifies that the state may require disclosure of selected types of information. Likewise, voucher plans vary widely in their regulation of educational practices. All plans would uphold the state role in establishing minimal curriculum requirements, though there is great variation in the specificity of requirements. In addition, the purposes of public aid would vary widely across different voucher schemes, as would the magnitude of the aid. On one extreme Friedman would employ a uniform voucher, allow additional payments by parents over and above the value of the voucher, and grant schools wide discretion in the use of funds. Coons and Sugarman would follow Friedman, except that a uniform voucher would be replaced by one whose value would vary according to student needs. Finally, on the other extreme, Jencks and the OEO plans would provide compensatory vouchers for low-income students and grant states the power to shape the internal operations of schools. Milton Friedman, "The Role

of Government in Education," in Capitalism and Freedom, (Chicago: University of Chicago Press, 1961), ch. vi; Christopher Jencks, "Is the Public School Obsolete?" The Public Interest (Winter 1966): 18-27; John E. Coons and Stephen D. Sugarman, Education by Choice, (Berkeley, CA: University of California Press, 1978); for a discussion of the OEO scheme, see David K. Cohen and Eleanor Farrar, "Power to the Parents?--The Story of Educational Vouchers," Public Interest (Summer 1977): 72-97; Henry M. Levin, "Educational Vouchers and Social Policy," in Care and Education of Young Children in America, ed. J. Gallagher and R. Haskins (Norwood, NJ: Albex, 1980). Also see Levin's "Educational Vouchers and Educational Equality," in Schooling in a Corporate Society, 2d ed., ed. Martin Carnoy. (New York: David McKay, 1975), pp. 293-309.